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Human Rights Council
Twenty-sixth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Reporters Without Borders International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[21 May 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.14-03855 (E)
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Please recycle

An alarming deterioration of journalists' safety

In December 2013, after journalists Claude Verlon and Ghislaine Dupont were killed in Mali, the United Nations General Assembly condemned *"all attacks and violence against journalists and media workers...in both conflict and non-conflict situations."*

Six months later, another French journalist, Camille Lepage, a well-known young photographer, was gunned down in the performance of her duties. Having gone to the Central African Republic to document the lives of people victimized by the fratricidal war there, she was found dead on 13 May 2014.

Her murder illustrates the insecure conditions faced by professional and amateur journalists and news media assistants, despite various United Nations resolutions. At least 19 journalists have been killed so far this year.

THE HECATOMB OF NEWS PROVIDERS DURING ARMED CONFLICTS

Despite Security Council 1738 which states that *"Journalists, media professionals and associated personnel...in areas of armed conflict shall be considered as civilians."* and that *"attacks intentionally directed against civilians...in situations of armed conflict constitute war crimes"*, news providers are increasingly a favourite target for all sides of the conflicts.

The situation in Syria is catastrophic. The country is today the most dangerous in the world for journalists. RWB estimates that at least 155 journalists and citizen-journalists have been killed since the conflict began in 2011, with 17 killed so far this year.

In the Democratic Republic of the Congo, Kennedy Germain Mumbere Muliwavyo, a journalist for *Radio Télévision Muungano d'Oïcha* was killed on 16 February 2014 in Beni during an attack by Ugandan rebels from ADF-Nalu. Two journalists with him were wounded during the fighting.

PEACEFUL DEMONSTRATIONS DO NOT GUARANTEE ANY PROTECTION

In March 2014, in Resolution 25/38 on peaceful demonstrations, the Human Rights Council expressed its concern about *"the number of attacks targeting...journalists in the context of peaceful protests."* The Council demanded that *"all States...pay particular attention to the safety of journalists and media workers covering peaceful protests, taking into account their specific role, exposure and vulnerability."*

Reporters Without Borders regularly expresses its fears for the safety of journalists covering demonstrations, given the violence and intimidation which continues to be directed against them. Though the Resolution is an important contribution to journalists' security, it remains insufficient and a mechanism to monitor its implementation has become crucial.

- In Brazil, 107 deliberate attacks on news professionals have been registered, from May, 2013, when the protest movement began, through April 2014.
- In Cambodia on 1 May 2014, at least three journalists were brutally mistreated by security forces during an opposition rally.
- In Colombia, police attacked four journalists, although they had shown press credentials, during May Day demonstrations in Medellin this year.

- In Egypt, two journalists suffered bullet wounds on 14 April 2014 while covering the violent crackdown on a pro-Morsi student demonstration at Cairo University.

- In Turkey, during May Day demonstrations this year, at least 12 journalists were wounded and one was arrested.

- In Ukraine on 9 April 2014, journalists from the *NTN* and *Ukraina* networks were set upon by pro-Russian demonstrations in front of security agency offices in Lugansk. Three days later, a cameraman from *LOT*, a local network, was struck in the head in the same location under similar circumstances.

THE ROLE OF NON-STATE ACTORS

The United Nations General Assembly, in Resolution 68/163 on the security of journalists expressed concern *"at the threat to safety of journalists posed by non-State actors, including terrorist groups and criminal organizations."*

- In India on 14 January, the offices of the *Samaj* newspaper, which had published images of the Prophet Mohammed, were attacked by fundamentalist groups in several cities in the state of Odisha (Orissa).

- In Mexico, journalist Gregorio Jiménez de la Cruz was found dead on 11 February 2014. He had been covering crime news for local newspapers and had been kidnapped six days earlier by an armed group.

- In Pakistan on 17 January 2014, 3 employees of the *Express News* TV network were murdered in Karachi by a Taliban group.

HARASSMENT BY THE POLICE AND JUDICIARY

In many countries, investigative journalists are targets harassment by the police and the when they seek to disclose sensitive information in spite of the Human Rights Council Resolution 25/38 of the Human Rights Council which specifically called upon States to *"avoid the abuse and civil proceedings or threats of such acts at all times."*

- In Cuba, journalist Juliet Michelena Díaz was arrested on 7 April 2014, three days before the internet publication of an article reporting police violence in Havana. She is charged with "terrorism."

- In China, at last 21 journalists and 71 netizens are currently imprisoned. On 23 April 2014, Gao Yu, a noted journalist, disappeared. She had expressed concern about threats from state security officers. After she was held in secret for one week, the government's *CCTV* network broadcast in early May an alleged confession. Since May, 2014, journalist and activist Wu Wei, a former editor at the *South China Morning Post,* has been missing. According to some sources, she was arrested by Beijing police. The security services are making an increasing number of kidnapping-style arrests of this kind as the anniversary of the Tiananmin Square events approaches.

- In Somalia in February, 2014, intelligence service personnel held the director of *Radio Danan,* Mohamed Bare, for several days. They tortured and threatened to kill him if he did not stop reporting on the government.

THE REIGN OF IMPUNITY

According to GA Resolution 68/163 *"Impunity for attacks against journalists constitutes one of the main challenges to strengthening the protection of journalists."*

- In Pakistan, 63 journalists have been killed since 2002. The only case in which those responsible have been brought to justice is that of American journalist Daniel Pearl, decapitated on 1 February 2002 in Karachi.

- In Russia, where 32 journalists have been killed since 2002, impunity prevails in most cases. In one notorious case, the murderers of journalist Anna Politkovskaya still have not been brought to justice.

DIGITAL INSECURITY

In the digital age, journalist security is more than a physical issue. Governments today have at their disposal a wide range of tools to monitor, identify, censor and punish journalists and netizens who circulate online information some States would prefer not to make public. In a series of analytical reports (A/66/290; A/HRC17/27; A/HRC23/40), the Special Rapporteur on the Freedom of Opinion and Expression has consistently affirmed that the Freedoms applying offline apply also online. Nevertheless, the new digital landscape has exponentially increased risks for newsproviders.

- In Ethiopia in 2014, the Information Network Security Agency tracked journalists as far away as the United States using spy software from Hacking Team, an Italian company that Reporters Without Borders designated as an "Internet Enemy" in 2013.

- In the United Kingdom and the United States, intelligence agencies have spied on the communications of several million local and foreign citizens, many journalists among them, and have deliberately introduced security faults in equipment that relays internet search requests.

RECOMMENDATIONS

In order to promote greater respect for the safety of journalists, Reporters Without Borders recommends:

To the UNGA:

- **The appointment of a special adviser to the Secretary General on the issue of journalists' safety.** Appointed by the Secretary General, this official would be in charge of monitoring and regulating member States' observance of Security Council Resolution 1738.

To the international community:

- **The Amendment of Article 8 of the International Criminal Court statutes on war crimes,** to specifically define the mounting of deliberate attacks on journalists, media workers and their assistants as war crimes.

- **The adoption of a binding international agreement regulating the export of internet surveillance technology** that includes controls of the export of anti-freedom technology and an independent monitoring system made up of all stakeholders, including civil society, able to inflict effective sanctions on violators

To the HRC

- **The expansion of member States' obligation to 'respect and protect' to all newsproviders** through an appropriate Human Rights Council Resolution.

- **The establishment of effective human rights mechanisms and measures for information workers forced to flee their countries,** such as alert mechanisms and contact persons in national and regional OHCHR office working closely with UNHCR to immediately identify and protect newsproviders facing extreme threats.

- **The strengthening of the mandate of the United Nations Working Group on the Issue of Human Rights and Transnational Corporations,** especially by authorizing it to receiving individual complaints and to investigate individual cases of human rights violations linked to these companies.

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Please recycle

The era of digital mercenaries

The internet is an invaluable tool for human rights defenders, journalists, netizens and citizen journalists. They use the internet to research and circulate news, communicate with each other, store data and disseminate opinions. The global network has become indispensable to the exercise of freedom of information.

But the internet is has also become a powerful tool for governments to monitor, identify, localize and censor individuals, especially journalists and netizens, who circulate information they prefer not to make public. Monitoring of the internet and its users has become a daily, massive reality. Many governments systematically monitor all those who provide information, a practice that gives rise to serious violations of human rights and freedom of information.

Though internet censorship and surveillance limit the exercise of fundamental rights and freedoms, online freedom of expression enables free debate on matters of general interest, such as sustainable development, good government and protection of democratic rights. Expansion of surveillance has become a major concern in the protection of human rights, and freedom of expression and information in the 21st century.

THE SURVEILLANCE BUSINESS; DIGITAL MERCENARIES

Companies that develop and sell internet surveillance technology have a major stake in this entire issue. Online censorship and surveillance by governments would be impossible without tools developed by private firms. Many of these companies, acting from entirely commercial motives, agree to work with authoritarian governments and to sell them technologies that enable the monitoring of citizens, the opposition and journalists. These governments make massive use of these products to violate human rights and the freedom of information. The companies cannot pretend not to know how their technology is used.

Companies in this business are truly digital era mercenaries, sharing a market worth more than $5 billion in 2011, according to Wikileaks.

The firms offer their services to a number of governments. In 2013, Reporters Without Borders designated five companies *Gamma, Trovicor, Hacking Team, Amesys* and *Blue Coat* – as Internet Enemies.'' They have sold surveillance tools to authoritarian regimes including Bahrain, Syria, Vietnam and Iran. In Ethiopia, the Information Network Security Agency has tracked journalists as far away as the United States with the help of software from *Hacking Team,* an Italian company. ZTE, a Chinese firm, has become the leading supplier of modems and routers to Uzbekistan.

Beyond the work of companies specializing in surveillance technology, the major internet players are also guilty of complicity in human rights violations committed on a massive scale. In 2005, information provided by *Yahoo!* to the Chinese government prompted the arest of journalist Shi Tao, who was sentenced to 10 years in prison for having disclosed ''state secrets.'' *Yahoo!* Voluntarily turned over a major quantity of data that allowed identification of the journalist as well as the nature and content of his electronic communications. Likewise, the *Sina/Weibo* Chinese microblogging company collaborates with the Chinese government in intercepting and censoring messages, thereby becoming an accomplice to the subsequent persecution of the authors.

Ambivalent behaviour of Western democracies

Most of the companies that develop and sell surveillance technology are based in democratic countries. There, laws exist to protect human rights, and freedom of information and expression, as well as privacy. The five companies that Reporters Without Borders designated in 2013 as ''Internet Enemies'' are based in the United Kingdom, Germany, Italy, France and the United States. These countries close their eyes to the nature of these businesses, and sometimes even grant trade preferences for exports to authoritarian countries.

Another illustration of the ambivalent behaviour of Western democracies: the ISS World, Technology Against Crime and Milipol trade fairs, which amount to trafficking in surveillance technology. These events connect companies that

specialize in communications surveillance and interference to representatives of governments interested in this technology. In 2013, France welcomed TAC and Milipol. Later that year, in December, the French government announced that the export of surveillance material outside the EU would require authorization.

The Western democracies not only encourage trade in anti-freedom technology, they themselves are users. As the Special Rapporteur on Freedom of Information to the Human Rights Council stated, in his report of 3 June 2013 on internet surveillance by governments, the use of espionage technology on citizens is not limited to authoritarian regimes. No government is immune from the effects of this kind of surveillance. France, for example, reached an agreement this year with Orange. The telecommunications company. The pact grants government intelligence services complete access, free of all outside control, to the company's networks and the data that moves through them.

Development of tools designed to ensure online security for journalists and netizens

Reporters Without Borders has developed tools designed to allow information activists – journalists, bloggers and netizens – to shield themselves online,. In 2010, the organization established an ''Anti-Censorship Shelter'' for journalists, bloggers and dissidents, to teach them how to bypass censorship, protect their communications and remain anonymous online.

In addition, RWB conducts regular training sessions in digital security. The training is designed to teach journalists and bloggers how to secure their online communications using encryption, anonymous browsing and other methods. In May of this year, training was conducted in Ivory Coast for approximately 70 bloggers from Africa and elsewhere. Previously, training was carried out in Afghanistan, Egypt, Tunisia, Turkmenistan, Thailand and Senegal. And on the initiative of Privacy International, RWB and other NGOs (Human Rights Watch, Digitale Gesellschaft, FIDH, Amnesty International and Open Technology Institute) this year launched CAUSE (Coalition Against Unlawful Surveillance Exports). Its aim is to coordinate an international call for action from national governments and regional institutions, as well as raising wider awareness of the privatized surveillance industry and the damaging impact the technologies have on human rights.

However, in the absence of a specific and protective legal framework, these initiatives remain insufficient. An urgent need exists for new legal provisions, at an international, regional and national level.

Need to adopt a protective legal framework for individual internet users, and enforcement measures against ''Internet Enemies''

Some measures have already been adopted at the international level. The right to privacy is internationally recognized in the Universal Declaration on Human rights and in the International Covenant on Civil and Police Rights (Art. 12). The latter also recognizes freedom of expression (Art. 19). The Wassenaar Arrangement of July 1996 is designed to promote ''transparency and greater responsibility in transfers of conventional arms, thus preventing destabilizing accumulations.'' Forty-one countries are now parties to the agreement, among them France, Germany, the United Kingdom and the United States.

In 2011, the Human Rights Council unanimously adopted the Guiding Principles on Business and Human Rights.

The Human Rights Council also recognized on 5 July 2012, the right of free expression online, and stated that rights recognized in the physical world must likewise be recognized on the internet, regardless of national borders.

Much remains to be done. Legislation to block limitations on the free flow of information and opinion must be adopted. Because the internet is a global resource, the United Nations has a major role to play.

In light of these factors, RWB recommends that the United Nations:

- Strengthen the mandate of the ''Working Group on the Issue of Human Rights and Transnational Corporations,'' specifically authorizing it to act on individual complaints and to investigate individual cases of human rights violations linked to these companies ;

- Consider establishing an international convention concerning the responsibility of private companies in human rights matters, invoking and deepening the guiding principles of the United Nations;
- Consider establishing an international convention on the export of internet surveillance technology, authorizing controls on the furnishing of technology that endangers rights guaranteed to all internet users, establishing a monitoring agency independent of governments and capable of imposing sanctions on violators. This convention must establish rules that authorize export prohibitions in cases in which a substantial risk exists that the equipment will be used to commit or facilitate serious human rights violations.

RWB recommends that governments :

- Exercise more rigorous control on exports of internet surveillance equipment, especially to areas of armed conflict, and to governments that do not respect basic freedoms.

- Recommend that any export control regime instituted and promoted by Member States be part of an international strategy for regulating the transnational trade of surveillance technology.

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The independence of the judiciary is crucial to ensure free access to information

Among all the challenges that news providers are facing nowadays, protection from abuse of power by the State is undoubtedly among the most troublesome. In many countries, questioning the activities of high level officials or powerful personalities can be very risky for those who are seeking to defend public interest.
Journalists, bloggers and whistleblowers trying to reveal frauds from people in power are very often threatened, harassed or physically attacked, simply for publishing proven facts.

In states where due process is fully respected, the judiciary is generally a last resort for the protection of newsproviders facing threats. Unfortunately, experience has shown that law officials and tribunals are much too frequently implicated in the actions of the States' mechanisms of repression. They become the problem rather than the solution: judges and attorneys misuse and abuse their power, ignoring their obligation to act with independence and integrity by becoming the hidden long arm of a state that uses them to silence dissident voices and ensure the impunity of those who violate the right to know and the right to inform. Their target is no longer the criminal but the messenger.
Wherever freedom of expressions is fragile or endangered, it is therefore crucial to monitor and protect the integrity of judiciary system to ensure that newsproviders can safely play their role, secure in the knowledge that there are guarantees to protect them through fair trials and due process.

As illustrated by the following few examples, no region is immune of problems.

- In Bahrain, on 26th march 2014, the photo reporter **Ahmed Humaidan** has been sentenced to 10 years imprisonment. He is accused of having taken part in the attack of a police station in April 2012, even though he was not present when these events occurred. Repeatedly harassed for reporting exactions committed by security forces, Ahmed Humaidan seems to be another victim of a judicial decision specifically aimed at silencing an inconvenient witness.

- In Bolivia, on 22th April 2014, general attorney charged **Ricardo Aguilar** and **Claudia Benavente, both journalists, for publishing information allegedly protected by secrets of state. They have been accused of spying and requested to reveal their sources, even though Bolivian press law forbids such demands. Although national security matters are always very sensible topics. As in many other countries, national security is used by a Government to deter media professional from reporting on certain issues despite their public interest value.**

- In Kazakhstan, a judicial procedure aiming at shutting down the opposition newspaper **Pravdivaïa Gazeta** has been initiated on 12 February 2014. Referring to three sentences pronounced against this media in the past, an Almaty district's attorney requested that it ceases its activities for good, this in spite of the fact that these previous judicial decisions appear to be parodies of justice, violating the universal right to a fair trial. The highly disproportionate punishments imposed by Kazakh tribunals to Pravdivaïa Gazeta raise serious concerns about collusion between the judiciary and the government and to silence a dissident voice.

- In Swaziland, journalists **Bheki Makhubu, journalist** and **Thulani Maseko, are both detained since 18th march 2014 for having published two articles questioning the independence and fairness of the justice institutions of their country, as well as the integrity of the Supreme Court's president, Michael Ramodibedi. The crime of "insult to the authority of justice" is frequently invoked to repress those who dared to criticize them.**

- In Vietnam, on 18th February 2014, blogger and lawyer **Le Quoc Quan** was sentenced to 30 months in prison by Hanoi's appeal Court for a tax fraud. As a famous political opponent, Le Quoc Quan has for years suffered persistent harassment from the Vietnamese Government and it is hard to believe that, after a patently unfair trial, a fiscal crime is punished by such a disproportionate penalty when the victim is a well known critic of the authorities.

This list is far from exhaustive.
Still, these 5 cases provide a clear idea of the abuse and misuse of the judiciary by Governments and of its harmful consequences.

No one questions the need to prosecute all individuals, including news providers, who break the law. But it is essential to ensure their rights are respected by an independent judiciary and a national legislation in line with Article 19 of the UDHR and the ICCPR.

RECOMMENDATION

The Human Rights Council must monitor the question of the independence of the judiciary in the context of Article 19, both through the mandate of the Special Rapporteur on Freedom of expression and that of the Special Rapporteur on the independence of judges and lawyers.

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Human rights situations that require the Council's attention

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Please recycle

The Human Rights Council must call on Ukraine to protect the right to life, and to ensure that all human rights abuses are promptly, effectively and independently investigated

Amnesty International has been monitoring events in Ukraine and has documented cases of excessive use of force by law enforcement officers, abductions and ill-treatment of captives both by armed groups resisting the interim Kyiv authorities and by groups loyal to them, and inadequate policing leading to violations of the right to life.

Excessive use of force and firearms

As of 20 May, 2014 at least 30 people had died since the launching of security operations in eastern Ukraine on 15 April to regain control of cities in the Donetsk region from armed groups opposing the interim authorities in Kyiv. In some cases Ukrainian law enforcement officers have been using abusive force against members of the public in violation of international standards. Two members of the public, Yuriy Mykolenko and Vadim Khudich, reportedly died when Ukrainian law enforcement officers opened fire on a crowd that had gathered to vote in the "referendum" in Krasnoarmeisk on 11 May. Video material available on the internet shows a Ukrainian law enforcement officer identifying himself as a member of the police special forces "Dnepr" and attempting to persuade the crowd to disperse. Subsequent footage shows six men in khaki armed with Kalashnikovs attempting to disperse the crowd by firing over their heads. Then one officer aims at the crowd and shoots one demonstrator in the leg.[1] The Ministry of Internal Affairs has started a murder investigation into the killing of the two men, but denies that the police special forces "Dnepr" had been at the scene.

Unlawful deprivation of freedom and ill-treatment of captives

More than 20 people have been abducted in Slovyansk by armed groups resisting the Kyiv authorities since 13 April. They include foreign journalists and a group of eight military observers from the Organization for Security and Co-operation in Europe (OSCE). The foreign journalists, OSCE military observers and some others have been released, but at least three people still remain in captivity. Pavlo Yurov, a theatre producer, his colleague Denis Grishchuk, and Igor Oprya, a student from Kyiv. Those who have been released report they were held in the basement of the State Security Service headquarters in Slovyansk, forced to sleep on a cement floor and beaten during interrogations.

On 7 May 2014 the website of Oleg Lyashko, a member of the Ukrainian parliament and presidential candidate, published a report and video footage of the interrogation and ill-treatment of two men inside a car, reportedly at an airfield near Mariupol. The two captives, who are initially blindfolded, are seen with their hands tied behind their backs being interrogated by Oleg Lyashko, who also appears to be in charge of a group of armed men. One of the captives introduces himself as Igor Khakmizyanov, former minister of defence of the self-styled People's Republic of Donetsk. He is almost totally naked, with two distinct bleeding cuts on his body. At least eight men can be seen outside the car, wearing unidentifiable black uniforms. Four of them are wearing facemasks and holding Kalashnikov assault rifles. At the end of the footage Igor Khakmizyanov is blindfolded again, and he and the other captive are transferred to a helicopter and taken to an unknown destination.[2]

Inadequate policing

As civil unrest becomes more violent in Ukraine, it is vital that there should be effective policing to protect the right to life, liberty and security of the person. The shocking events of 2 May 2014 in Odesa, which left at least 46 people dead and 200 injured following violent clashes between supporters of the interim authorities in Kyiv and protesters opposing the Kyiv authorities, highlight the failure of policing in Ukraine. Violent clashes broke out in the city centre at about 3pm as football fans were gathering for a match between rival teams Kharkiv Metalist and Odesa Chornomorets. Following the shooting of a government supporter, the pro-Kyiv crowd charged a camp of anti-Kyiv protesters that had been located outside the trade union building for several months. Anti-Kyiv protesters and people who had been involved in the clashes sought cover in the trade union building when pro-Kyiv crowds attacked them. The building subsequently caught fire, trapping many people in the flames. Many died from burns, smoke inhalation, as a result of

[1] See footage from the municipal website of Krasnoarmeisk: http://www.06239.com.ua/news/532270.

[2] See Urgent Action:114/14 AI Index: EUR 50/020/2014, 8 May 2014. http://www.amnesty.org/en/library/asset/EUR50/020/2014/en/3f7da87b-1ba8-4375-a52a-eca3e47a5c8e/eur500202014en.p.

jumping from the building, and from gunshot wounds. According to some media reports, police failed to take action to prevent or contain the violence, and there is video footage of police standing by while violence is taking place, including guns being fired, stone-throwing, and beatings by people on both sides. On 4 May, Acting Prime Minister Arseniy Yatseniuk blamed police officers for the failure to prevent casualties and dismissed the Odesa police chief and deputy chief. Arseniy Yatseniuk also announced that a special investigative group had been set up in the General Prosecutor's Office to investigate the events.

Impunity

On 5 May, the acting Head of the Presidential Administration expressed his gratitude to law enforcement officers, including former members of the now disbanded Berkut riot police force, praising their heroism and bravery during recent "anti-terrorist" operations in the eastern part of the country. He stated that in view of the difficult situation that Berkut riot police officers had been placed in under the previous regime, only those officers found to be responsible for the killing and torture of protestors would be prosecuted. Amnesty International has documented many cases of excessive use of force by riot police officers during the EuroMaydan protests in Kyiv. If the Kyiv authorities choose to ignore such human rights violations by riot police officers, they are encouraging a climate of impunity that will lead to further abuses.

Amnesty International urges the UN Human Rights Council, its member states and observers to call for:

- prompt, effective, and independent investigations into allegations of human rights violations, in particular arbitrary and abusive use of force, including killings, committed by Ukrainian law enforcement officials, or any other individuals cooperating with them, in the context of the so called "anti-terrorist operation" in the east and south east of the country;
- the immediate release of all captives held by armed groups resisting the Kyiv authorities in Slovyansk;
- the immediate release of anybody held by any groups or individuals who are not competent officials or persons authorized to exercise powers of detention;
- a prompt, effective and independent investigation into the circumstances of the deaths in Odesa preferably with the participation of independent national or international experts or both;
- other states to suspend transfers to Ukraine of munitions, weapons, and related equipment, including crowd control weapons and devices, training and techniques that pose a substantial risk of being misused to commit serious violations or abuses of human rights until effective steps have been taken by the Ukrainian authorities to achieve accountability for previous violations and until effective mechanisms are in place to ensure that these items will not be used to commit or facilitate such violations or abuses. The suspension of transfers should also include all indirect exports via other countries, the transfer of components and technologies used for such equipment, and any brokering, financial or logistical activities that would facilitate such transfers.

Amnesty International calls on the interim Ukrainian authorities to:

- ensure that Ukrainian law enforcement and military officials engaged in operations to restore security in eastern Ukraine adhere to international law and standards on the use of force and firearms, and in particular resort to the use of firearms only in defence against an imminent threat of death or serious injury. They should apply other non-violent means before resorting to the use of force, and the use of firearms must always be the last resort. When the use of force and firearms is unavoidable they must exercise restraint and take steps to minimize damage and injury and preserve life.

And reiterates its calls on the interim Ukrainian authorities to:

- ensure that all allegations of torture and other ill-treatment and excessive use of force by law enforcement officers, including killings, all alleged abuses by any vigilante groups who have allegedly colluded with them, and abuses by others, are promptly, effectively and independently investigated and that those reasonably suspected of such crimes are prosecuted in proceedings which fully comply with international standards for fair trial;
- urgently establish a genuinely independent institution that effectively and promptly investigates all allegations of torture and other ill-treatment by law enforcement officers.

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Human rights situations that require the Council's attention

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The Need to Address the Human Rights Crisis in Bahrain

On the occasion of the 26th Session of the United Nations Human Rights Council (HRC), Alsalam Foundation, on behalf of Americans for Democracy and Human Rights in Bahrain (ADHRB), strongly condemns the inaction of the Government of the Kingdom of Bahrain in addressing ongoing and systematic human rights abuses. Over the last three years, the Government of Bahrain has continued to repress the basic human rights of its citizens and residents while misleading the international community with empty promises of reform. As such, ADHRB calls on the Member States of the Human Rights Council to concretely demonstrate to the Government of Bahrain that the international community will no longer be misled, and pass a resolution under Agenda Item 2 condemning Bahrain for its human rights derogations.

The dire status of human rights in Bahrain was recently witnessed by Office of the High Commissioner on Human Rights (OHCHR) recent temporary mission to the country, where the implementation of legislative measures designed to curb dissent has resulted in the imprisonment of over 3,800 persons on political charges. Many of these prisoners have been systematically targeted for arbitrary arrest, ill-treatment, and torture, with children numbering among the most abused. These violations continue to be carried out in an environment of impunity, as courts refuse to convict torturers and other human rights offenders.

Abuses such as these stand in stark contrast to Bahrain's obligations under international law and to independent human rights institutions. Numerous independent reviews have found that Bahrain has failed to effectively implement the recommendations of both the government-commissioned Bahrain Independent Commission of Inquiry and the 158 wide ranging recommendations of the second cycle Universal Periodic Review (UPR). Additionally, the government has yet to implement the provisions of the International Covenant on Civil and Political Rights or the Convention against Torture.

As Bahrain approaches its mid-term report at the end of this year, now is the time for the international community to encourage Bahrain to recommit to implementing meaningful reforms in line with the recommendations it accepted from its 2012 Second Cycle UPR. The international community and the Human Rights Council in particular can take strong action to hold the Government of Bahrain accountable by issuing a resolution under Agenda Item 2. This resolution must condemn the government's inaction in addressing its human rights abuses and enumerate a list of concrete yet achievable benchmarks demonstrate the willingness of the Bahrain government to cooperate genuinely with the Human Rights Council and to seriously implement the reforms it accepted in the UPR.

An Item 2 Resolution on Bahrain should call for:

- The release of all political prisoners;
- Restoring citizenship to all of those whose citizenship was arbitrarily revoked for political purposes;
- Facilitating the establishment of a permanent OHCHR mission in Bahrain with full technical and reporting mandates;
- Granting unrestricted access to the country without delay for the Special Procedures of the Human Rights Council, in particular the Special Rapporteur on torture and other cruel, inhuman, or degrading treatment or punishment;
- Reforming the National Institute for Human Rights to achieve independence under the Paris Principles in order to achieve OHCHR accreditation;
- Repealing repressive national legislation curtailing citizens' rights to free assembly, expression, and association;
- Passing pending national draft legislation on nationality; and
- Withdrawing all current reservations to the CEDAW.

The resolution should also call on the Bahraini government to engage more fully with the HRC and the OHCHR by choosing to make their mid-term report an interactive process, with input from non-governmental organizations, civil society and the international community. Achieving these concrete benchmarks will help reduce tensions in the country and create the space for the political reconciliation necessary to resolve the crisis in Bahrain.

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Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Permanent Assembly for Human Rights, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[23 May 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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The situation of the Sikh people in India

The events of June 1984

International Educational Development, Inc., the Association of Humanitarian Lawyers and Sikhs for Justice inform the Council that June 2014 marks the 30th anniversary of Indian Army's attack on the holiest Sikh shrine, the Golden Temple in Amritsar. Code named "Operation Blue Star, the attack resulted in the killing of several thousand unarmed and innocent pilgrims. This attack clearly violated the basic humanitarian law provisions for the protection of the civilian populations and for the protection of cultural objects and places of worship as set out, inter alia, in Article 3 Common to the Geneva Conventions of 1949 and Protocols Additional I and II to the Geneva Conventions. In our view, this attack also constituted an act of aggression according to the General Assembly Resolution 3314 (XXIX) of 14 December 1974 due to the status of the state of Punjab under the terms of the right to self-determination.

The ostensible aim was to target the leadership of the movement for right to self determination, who were nonetheless civilians. The level of force used in the attack was utterly incommensurate with a limited and eminently attainable aim to capture the Sikh leaders. Rather than a police action to arrest the leaders, seventy thousand troops using helicopter gunships, tanks and chemical gas, killed not only the leadership of the movement but also thousands of innocent Sikh pilgrims including children and women. In our view, the real objective was to terrorize the Sikh community so it would be too intimidates to support Bhindrawala's movement for right to self determination and plans to resist to state oppression.

One of the holiest day in June 1984 was chosen to launch this attack to maximize the loss of human life. Sri Akal Takht, the highest temporal seat of Sikhism, was reduced to rubble and the Sikh Reference Library, an irreplaceable collection of books, manuscripts, and artifacts bearing on all aspects of Sikh history, burned to ground. Thirty-seven other Sikh Gurudwaras were attacked across Punjab on the same day.

Although the June 1984 action by the Indian Army against the Sikhs and their religious objects and places of worship was in blatant violation of fundamental principles of law. Not a single inquiry has been conducted by the United Nations into the catastrophes perpetrated upon Sikh people in these events. Since 1984, the Sikh community worldwide commemorates their great loss, although in the Punjab these commemorations are muted due to fears of retaliation.

The Sikh claim to self-determination

The principle of self-determination is a norm of *jus cogens* in international law, and is prominently set out in Article 1 of the Charter and Article 1 of both covenants. Nonetheless, the right has been largely ignored since the end of the Commission on Human Rights when it was dropped as a separate agenda item at the Council. Because of this, a number of conflicts and situations of serious patterns of gross violations of human rights carried out against people in their historic homelands continues to plague the international community and the Council in particular. The situation of the Sikh people is one of these.

We believe that the Sikh claim to self-determination is particularly strong and clearly meets the five part test for self-determination: an identifiable territory; a history of self-governance in that territory; a distinct culture involving religion, language, social and other characteristics; a will for self-governance; and the capacity for self-governance.

- The Sikh Nation developed a national consciousness in the 17th century and established an independent and sovereign state in 1765 governed by Sikh rulers. This independent and sovereign Sikh state comprised the areas and territories of the currently Indian-held state of Punjab. The territory and leadership of the sovereign Sikh State was recognized by Great Britain and other European and Asian states until its conquest by the British in 1849 when it was the was the last nation to fall in the British conquest of the Indian subcontinent.

- The Sikh people of the Punjab have distinct religious, social, culture and linguistic characteristics.

- The Sikh people have shown a strong desire for sovereignty ever since the British left, and have worked continually for that end.

- The Sikh people clearly have the capacity for self-governance.

Continuing violations of the rights of the Sikh people

In spite of its strong claim for self-determination, when the British left India in 1947 the Sikh Nation was denied restoration of its pre-colonial independent status. Then in 1952 India promulgated its Constitution that in its Article 25(b)(2) abolished a separate identity of the Sikhs and classifies Sikhs as Hindu. The Sikh leadership was opposed to this and neither signed, ratified or endorsed this document.

Since the British have left, successive Indian governments have oppressed the Sikh communities leading to the catastrophe of 1984 but also continuing to date. Sikhs continue to seek and receive political asylum in other countries due to the on-going oppression. Sikhs are subjected to arrest and torture. Freedom of assembly and opinion are denied. A number of Sikh leaders have disappeared after being taken into custody. Participants in the 1984 events have been promoted to key positions in the Sikh areas, notably Sumedh Saini who was promoted to the post of Director General of Police in Punjab in 2012. Sikh leaders, organizations and publications are monitored, and the people threatened with the "terrorist" label if they publicly promote any form of autonomy.

Given the international law rule that the will of the people is the basis of government authority, the Sikhs in the Punjab should have an opportunity freely to express their will in open and fair elections or referenda. To date, this has not yet occurred. The Council will be faced with continuing and strong evidence of gross violations of the rights of the Sikh people in the years to come. In our view, the only remedy for the Sikhs is realization of the right to self-determination in a form acceptable to them.